

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

STEPHEN BOYLE,

Petitioner,

v.

SCOTT KERNAN, Secretary,

Respondent.

CASE NO. 16cv469 DMS (PCL)

**ORDER ADOPTING REPORT AND
RECOMMENDATION**

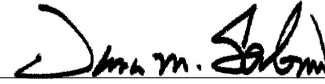
On February 19, 2016, Petitioner Stephen Boyle (“Petitioner”), a state prisoner proceeding *pro se* and *in forma pauperis*, filed a Petition for Writ of Habeas Corpus under 28 U.S.C. § 2254. On the same day, Petitioner filed a motion to stay federal proceedings. On August 11, 2016, Magistrate Judge Peter C. Lewis issued a Report and Recommendation (“R&R”), recommending that the Court deny Petitioner’s motion to stay. Petitioner filed objections to the R&R on August 26, 2016.

This Court, having reviewed *de novo* the Magistrate Judge’s R&R and Petitioner’s objections, adopts the R&R in its entirety.¹ Petitioner’s motion to stay is

¹ The R&R states that Petitioner filed his federal habeas petition “over a year after his conviction became final[,]” suggesting the Petition is untimely. (R&R at 4-5.) However, this Court notes that the Petition is timely. Petitioner’s conviction became final, and the one-year limitations period under Antiterrorism and Effective Death Penalty Act began to run on February 23, 2015, 90 days after the California Supreme Court denied his petition for review on November 25, 2014. *See* 28 U.S.C. § 2244(d)(1); *Bowen v. Roe*, 188 F.3d 1157, 1159 (9th Cir. 1999). Therefore, Petitioner had until February 23, 2016 to file his Petition, which he timely filed on February 19, 2016.

1 denied.

2 DATED: September 23, 2016

3 

4 HON. DANA M. SABRAW
5 United States District Judge
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28